



The **Hazard Evaluation and Emergency Response (HEER) Office** is part of the Hawai'i Department of Health Environmental Health Administration whose mission is to protect human health and the environment. The HEER Office provides leadership, support, and partnership in preventing, planning for, responding to, and enforcing environmental laws relating to releases or threats of releases of hazardous substances.

Understanding the Brownfields Tax Incentive

The purpose of the Brownfields Tax Incentive is to spur the cleanup and redevelopment of Brownfields. Federal tax law generally requires that the cost of property improvements must be deducted by property owners over a period of years. Other expenses, such as repairs, may be deducted in the same year they are incurred. The Taxpayer Relief Act of 1997 (Public Law 105-34) included the Brownfields Tax Incentive that allows a taxpayer to fully deduct the costs of environmental cleanups in the year the costs were incurred rather than spreading the deductions over a period of years. For some property owners, the accelerated deduction of the Brownfields Tax Incentive may provide a financial benefit that will stimulate Brownfields cleanup and revitalization.

In order to qualify for the Brownfields Tax Incentive, please send a letter to the State Brownfields and Voluntary Cleanup Program (VCP) Specialist to request a Property Eligibility Statement (contact information at the end of this document). The request letter should:

1. Verify that the site is held by the taxpayer for trade, business, or the production of income. Parks or open spaces do not qualify.
2. Verify that there has been a release, threat of release, or disposal of a hazardous substance at or on the property. Note that petroleum remedial costs that were incurred after 2006 also are eligible for the Brownfield Tax Incentive.
3. Verify that the site is not on the National Priority List, and is not under consideration for listing.
4. Reference any applicable documents from environmental investigation(s) and/or remediation of the eligible release.
5. Provide the name of the State Remedial Project Manager who has been overseeing the investigation and cleanup.

If the information in the letter is complete and the site is eligible for the Brownfields Tax Incentive, The State Brownfields and VCP Specialist will issue a Property Eligibility Statement. Once the statement is issued, the IRS will consider it valid for the life of the tax incentive. To claim the deduction, please write "Section 198 Election" on the income tax return next to the line where the deduction is claimed.

See Section 198 (a) of the Internal Revenue Code for details and consult with tax counsel to determine whether specific cost items are allowable expenses. Tax counsel may also assist with determining which previously filed tax returns can be amended to include deductions for past cleanup expenditures.

Hurry! The incentive is currently set to expire on December 31, 2011.



Further Information

For questions about this fact sheet or to obtain a Property Eligibility Statement contact:

- Lynn Bailey, Brownfields VCP Specialist
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Website:

<http://hawaii.gov/health/environmental/hazard/index.html>

Links to information from the Federal government on the Brownfields Tax Incentive, contact:

- IRS Internal Revenue Code 198:
http://taxalmanac.org/index.php/Internal_Revenue_Code/Sec._198_Expensing_of_environmental_remediation_costs
- U. S. Environmental Protection Agency Brownfields Tax Incentive Fact Sheet:
http://www.epa.gov/brownfields/tax/ti_factsheet.pdf
- U. S. Environmental Protection Agency Brownfields Tax Incentive Frequently Asked Questions
http://www.epa.gov/brownfields/tax/ti_faq.htm
- U. S. Environmental Protection Agency "A Guide to Federal Tax Incentives for Brownfields Redevelopment."
http://www.epa.gov/brownfields/tax/tax_guide.pdf

